

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

NOBLE ROMAN’S, INC.)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:14-cv-206
)	
B & MP, LLC, and LESLIE PERDRIAU,)	
)	JURY TRIAL DEMANDED
Defendants.)	

COMPLAINT FOR DAMAGES

Plaintiff, Noble Roman’s, Inc., for its claim for relief against the Defendants, B & MP, LLC and Leslie Perdriau, alleges and states:

I. Parties

1. Plaintiff, Noble Roman’s, Inc. (“Noble Roman’s”), is an Indiana corporation with its principal place of business located in Indianapolis, Marion County, Indiana.

2. Noble Roman’s is in the business of franchising the operation of Noble Roman’s pizza franchises that feature pizza, breadsticks, and other related food items to various franchisees throughout the world.

3. Defendant, B & MP, LLC, is an Illinois Limited Liability Company with its principal place of business in Bloomingdale, Illinois. All members of B & MP, LLC were citizens of Illinois. B & MP, LLC was involuntarily dissolved in 2011, and Defendant Leslie Perdriau, an individual residing in Apple River, Illinois, succeeded to its obligations. B & MP, LLC and Leslie Perdriau are hereinafter referred to collectively as “B & MP”. Defendants are citizens of Illinois.

II. Jurisdiction and Venue

4. Noble Roman's brings this action pursuant to 15 U.S.C. §§ 1114 and 1125 and under common law.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332(a)(2), 1337 and 1338. The parties are diverse in citizenship pursuant to 28 U.S.C. § 1332 and the amount in controversy, exclusive of interest and costs, is in excess of \$75,000.

6. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in the Southern District of Indiana.

7. The Court has personal jurisdiction over B & MP under Fed. R. Civ. Pr. 4(k)(1)(A) and Indiana Trial Rule 4.4(A).

III. Facts Applicable to All Claims

8. Noble Roman's registered the Noble Roman's® word mark on the Principal Register of the United States Patent and Trademark Office in 1974 under Registration No. 987,069, THE BETTER PIZZA PEOPLE® word mark in 1995 under Registration No. 1,920,428, and the design mark:



on the Principal Register of the United States Patent and Trademark Office in 1992 under Registration No. 1682308 (collectively, the "Marks"). The registrations are valid and incontestable and enjoy the statutory presumptions of validity and ownership.

9. Noble Roman's has used the Marks in commerce continuously since 1972 in connection with marketing, identifying, and promoting its pizza franchises.

10. On or about March 16, 2010, Noble Roman's and B & MP entered into two Franchise Agreements (the "Agreements"), true and accurate copies of which are attached hereto as Exhibits "A" and "B". Under the terms of the Agreements, B & MP became a franchisee of Noble Roman's licensed and authorized to sell "Noble Roman's" and "Tuscano's" branded food products using Noble Roman's licensed intellectual property assets, subject to the obligations in the Agreements, including but not limited to accurate reporting of sales and timely payment of franchise and other fees.

11. B & MP has breached the Agreement by failing to pay royalties as required under the Agreement and by misreporting sales, among other things.

12. B & MP has purposely, intentionally and knowingly misreported its sales to Noble Roman's for the purpose of avoiding payment of franchise fees and/or royalties which are justly owing.

IV. Count One (Trademark Infringement)

13. Noble Roman's incorporates herein by reference the allegations in paragraphs 1-12 in this Complaint as if fully alleged herein.

14. B & MP has used the Marks in commerce and in connection with the sale of non-Noble Roman's pizza and other menu items.

15. B & MP's use of the Marks is without the authorization or consent of Noble Roman's, and outside the scope of permission granted in the Agreement.

16. B & MP's acts constitute trademark infringement, a violation of 15 U.S.C. § 1114(1), as well as a false designation of origin in violation of 15 U.S.C. § 1125.

17. Noble Roman's has been damaged by B & MP's willful infringement and false designation of origin in an amount to be proven at trial.

V. Count One (Breach of Contract)

18. Noble Roman's incorporates herein by reference the allegations in paragraphs 1-17 in this Complaint.

19. All conditions precedent to the commencement of this action including but not limited to any requirements for notice of default or demand have occurred or been waived or otherwise excused.

20. The Agreements are valid and enforceable contracts between the parties.

21. Noble Roman's has performed all obligations and terms of the Agreements on its part to be performed.

22. B & MP has knowingly breached the Agreements by failing to report its sales to Noble Roman's for the purpose of avoiding payment of franchise fees and/or royalties which are justly owing.

23. Noble Roman's has been damaged by B & MP's breach of the Agreements in an amount to be proven at trial, and in excess of \$75,000.

24. Under the terms of the Agreements, in addition to compensatory damages for breach of the Agreements, B & MP is liable for interest, costs of collection, and reasonable attorney fees.

VI. Count Two (Fraud)

25. Noble Roman's incorporates herein by reference the allegations in paragraphs 1-24 in this Complaint.

26. As a result of B & MP's intentional and willful misreporting of its sales to Noble Roman's, B & MP is liable for punitive or exemplary damages in an amount sufficient to punish B & MP and deter similar conduct in the future.

WHEREFORE, Plaintiff, Noble Roman's, Inc., by counsel prays for judgment in its favor and against the Defendants, B & MP, LLC and Leslie Perdriau, in amount to be proven at trial, together with interest, punitive damages, cost of collection and reasonable attorney fees, and for all other relief right and proper in the premises.

Dated this 12th day of February, 2014.

Respectfully submitted,

/s/ Steven K. Huffer

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DEMAND FOR JURY TRIAL

Noble Roman's demands a jury trial for all issues that may be tried to a jury.

Respectfully submitted,

Date: February 12, 2014

/s/ Steven K. Huffer

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